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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/349,571	07/08/1999	MOOI CHOO CHUAH	M-35-CCHUAH	6785
30541	7590	10/14/2005	EXAMINER	
LAW OFFICE OF JOHN LIGON 213 E. HIGHLAND AVENUE P.O. BOX 281 ATLANTIC HIGHLANDS, NJ 07716			TON, DANG T	
			ART UNIT	PAPER NUMBER
			2666	

DATE MAILED: 10/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/349,571	Applicant(s) CHUAH, MOOI CHOO	
	Examiner DANG T. TON	Art Unit 2666	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 August 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-3 and 6-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over the admitted prior art of figure 1 in view of Pejihan et al. (Error Control Using Retransmission Schemes in Multicast Transport Protocols For Real Time Media, 1996 IEEE).

For claims 1-3,6,7,and 8, the admitted prior art of figure 1 discloses a method comprising the steps of :

sending packets directed to an L2TP peer (see packet # 1-5 directed to LT2P receiver in figure 1);

initiating a recovery process upon detection of multiple messages from the L2TP peer indicative that the L2TP peer is still waiting for a prior transmitted packet(see page 5 lines 5-7 and 10-20);

wherein the multiple messages are negative acknowledgements(see multiple message Nr = #2 in figure 1);

wherein the initiating step includes the step of sending a packet that includes a "Reset Sr" (*R-bit*) indicator for resetting a next received sequence number, Nr, value at the L2TP

peer(see page 5 lines 14 and 25-26);

receiving a packet from an L2TP peer, the received packet including a next received sequence number, *Nr*; value;

determining if the *Nr* value represents a negative acknowledgement(see *Nr* # 2 in figure 1 and page 5 lines 13-15);

wherein the recovery process includes the step of sending a packet that includes a "Reset *Sr*" (*R-bit*) indicator for resetting a next received sequence number, *Nr*, value at the L2TP peer (see page 5 lines 14 and 25-26);

sending packets directed to an L2TP peer(see page 5 lines 14 and 25-26);

initiating a recovery process upon detection of either multiple messages from the L2TP peer indicative that the L2TP peer is still waiting for a prior transmitted packet, or if a predetermined payload time-out occurs with respect to the prior transmitted packet(see page 5 lines 5-7 and 10-20);

wherein the multiple messages are negative acknowledgements(see *Nr* # 2 in figure 1); and

wherein the initiating step includes the step of sending a packet that includes a "Reset *Sr*" (*R-bit*) indicator for resetting a next received sequence number, *Nr*, value at the L2TP peer(see page 5 lines 14 and 25-26).

For claims 1-3 and 6-8, The admitted prior art of figure 1 discloses all the subject matter of the claimed invention with the exception of a predetermined number of negative acknowledgement a communications network. Pejhan from the same or similar fields of endeavor teaches the threshold being based on the number of hosts sending NACK's for a given packet (see section III Overview of Literature, paragraph 2). Thus, it would have been obvious to the person of ordinary skill in the art at the time of the invention to use the predetermined number of negative acknowledgement as taught by Pejhan in the communications network of the admitted prior art of figure 1.

The predetermined number of negative acknowledgement can be modified/ implemented into the network of the admitted prior art of figure 1 since it does teach NACK's. The motivation for using the predetermined number of negative acknowledgement being that it provides the system more reliable since it defines a retransmission scheme for control message lost during transmission.

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 4-5 and 9-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over (The admitted prior art figure 1 and Pejhan)in view of Miller et al. (5,727,002).

For claims 4-5 and 9-13, The admitted prior art of figure 1 discloses the method as described in the paragraph 1 of this office action.

For claims 4-5 and 9-13, The admitted prior art of figure 1 discloses all the subject matter of the claimed invention with the exception of a predetermined number of negative acknowledgement a communications network. Pejhan from the same or similar fields of endeavor teaches the threshold being based on the number of hosts sending NACK's for a given packet (see section III Overview of Literature, paragraph 2). Thus, it would have been obvious to the person of ordinary skill in the art at the time of the invention to use the predetermined number of negative acknowledgement as taught by Pejhan in the communications network of the admitted prior art of figure 1.

The predetermined number of negative acknowledgement can be modified/ implemented into the network of the admitted prior art of figure 1 since it does teach NACK's. The motivation for using the predetermined number of negative acknowledgement being that it provides the system more reliable since it defines a retransmission scheme for control message lost during transmission.

For claims 9-13, The admitted prior art of figure 1 discloses all the subject matter of the claimed invention with the exception of using a communication interface for sending packets and receiving packets and a processor for initiating a recovery process in a communications network. Miller et al. from the same or similar fields of endeavor teaches the network interface (box 56 in figure 5) coupled with the processor (box 50 in figure 5) to accomplish the acknowledgment mechanism . Thus, it would have been obvious to the person of ordinary skill in the art at the time of the invention to use the

interface and processor as taught by Miller et al. in the communications network of the admitted prior art of figure 1.

The communication interface and processor as taught by Miller et al can be modified/ implemented into the network of the admitted prior art of figure 1 by connecting the interface and the processor between the sender and receiver . The motivation for using the interface and processor being that it provides the system more reliable since it defines a retransmission scheme for control message lost during transmission.

3. Applicant's arguments filed 8/1/2005 have been fully considered but they are not persuasive.

In the remarks of 8/1/2005, applicant traverses the rejection under 35 U.S.C 103. The traversal is based on ground that the references do not teach defining and maintaining at the sending peer, along with a counter to maintain a count of the number of such negative acknowledgments received and a predefined number of such negative acknowledgments are received , the counter value is equal to that predefined number, a recovery process is initiated by the sending peer. This argument is not persuasive because applicant's argument is not directed at the claimed. The limitation argued by applicant " to maintain a count" is not cited in the claims.

In response to applicant's argument that Pejihan is nonanalogous art, it has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was

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concerned, in order to be relied upon as a basis for rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). In this case, Pejihan does teach determining number of negative ACKs for retransmission scheme and it is similar fields of the admitted prior art.

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992).

4. THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to DANG T. TON whose telephone number is 571-272-3171. The examiner can normally be reached on MON-WED, 5:30 AM-6:00 PM and Thur 5:30-9:30 A.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, RAO SEEMA can be reached on 571-272-3174. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

D. Ton



DANG TON
PRIMARY EXAMINER